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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,351	04/29/2005	Thomas Sandelius	9563-32	7207
54414 7590 09/17/2008 MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
EXAMINER				
DUONG, TAI V				
ART UNIT		PAPER NUMBER		
2871				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,351

Applicant(s)

SANDELIUS, THOMAS

Examiner

TAI DUONG

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

The replacement drawing sheet filed on 06/12/2008 has been accepted.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekiguchi et al (US 2002/0145688) cited by Applicant.

As to claims 1 and 9, note Fig. 10 which identically discloses the claimed portable electronic device comprising: at least one display unit, comprising: a substantially transparent display layer 15 having a front side for displaying information and a rear side; a color filter layer 28; a reflector 44; and a lighting system 31 for illuminating the substantially transparent display layer from the rear side, the lighting system configured to be switched on or off, wherein the display unit operates in an emissive mode when the lighting system is switched on, wherein the display unit operates in a reflective and/or transfective mode when the lighting system is switched off, and wherein the reflector 44 is on a front side of the color filter layer 28 facing a user, such that reflected light 36 does not travel through the color filter layer 28 (paragraphs 0183-0192). As to the lighting system, the On/Off of the lighting system with respect to the operation modes (emissive, reflective or transfective) of the display unit, and the portable electronic device (timepiece), see paragraphs 0088, 0002-0004 and 0229, respectively. Regarding claims 2 and 10, as apparent from Fig. 10, the front

side of the color filter layer 28 includes at least one reflector (reflecting portions 52 of the reflector 44) in the plane view.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al (US 2002/0145688) in view of Okamoto et al (US 2001/0052948) both cited by Applicant.

The only difference between the device of Sekiguchi et al and that of the instant claims is the area of the reflector with respect to the area of the color filter. However, Okamoto et al disclose that it was known to adjust the area of the reflector with respect to the area of the color filter (paragraph 0460). Thus, it would have been obvious to a person of ordinary skill in the art to adjust the area of the reflector with respect to the area of the color filter of the device of Sekiguchi et al for adjusting the brightness of the monochrome display (reflective mode), as disclosed by Okamoto et al. Also, in the absence of unexpected results, it has been held that the change in size/proportion normally requires only ordinary skill in the art and hence is considered routine expedients. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). See MPEP 2144.

Claims 5, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al (US 2002/0145688) in view of Okamoto et al (US 2001/0052948) both cited by Applicant.

The only difference between the device cited in the above rejection of claims 3 and 4 and that of the instant claims is the location of the reflector with respect to the color filter. In the absence of unexpected results, it has been held that the rearrangement of parts normally requires only ordinary skill in the art and hence is considered routine expedients. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). See MPEP 2144. Also, it would have been obvious to a person of ordinary skill in the art to rearrange the location of the reflector with respect to the color filter in the device cited in the above rejection of claims 3 and 4 for obtaining a good viewing angle of the monochrome display (reflective mode).

Claims 7, 8 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al (US 2002/0145688) in view of Okamoto et al (US 2001/0052948) as applied to claims 3-6 above, and further in view of Funahata et al (US 2002/0191134).

As to claims 7, 13, 15 and 17, the only difference between the device cited in the above rejection of claims 3-6 and that of the instant claims is the reflector having a rectangular shape. However, Funahata et al disclose in Fig. 13 that it was known to employ a reflector having a rectangular shape (paragraph 0203). Thus, it would have been obvious to a person of ordinary skill in the art in view of Funahata et al to employ a reflector having a rectangular shape in the device cited in the above rejection of claims

3-6 for enhancing the display quality of the monochrome display (reflective mode). Also, in the absence of unexpected results, it has been held that the change in shape normally requires only ordinary skill in the art and hence is considered routine expedients. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP 2144.

Regarding claims 8, 14, 16 and 18, the only difference between the device cited in the above rejection of claims 3-6 and that of the instant claims is the reflector having a circular shape. In the absence of unexpected results, it has been held that the change in shape normally requires only ordinary skill in the art and hence is considered routine expedients. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP 2144. For a particular application (e.g. the dots in the timepiece), it would have been obvious to a person of ordinary skill in the art to employ a reflector having a circular shape in the device cited in the above rejection of claims 3-6 for enhancing the display quality of the monochrome display (reflective mode).

Response to Applicant's Remarks

The examiner does not agree with Applicant's remarks that Sekiguchi fails to disclose or suggest the highlighted recitations "wherein the reflector is on a front side of the color filter layer facing a user such that reflected light does not travel through the color filter layer" (page 8 of the Remarks). As clearly shown in Fig. 10 of Sekiguchi, the reflector 44 is on a front side of the color filter layer 28 facing a user (the front side of the color filter layer 28 is the side facing the user/observer while the rear side of the color filter layer is the side facing the lighting system 31) such that reflected light 36 does not travel through the color filter layer 28. That is the light 36 reflected by the

reflector 44 does not travel through the color filter layer 28. This interpretation is consistent with the recitations of claims 1, 9 and the instant specification (specification, page 6, lines 11 – page 7, line 2). It is noted that the reflected light 38 is the light reflected by the rear reflector, not by the reflector 44. The rear reflector is on the *rear* side of the color filter layer 28.

Thus, Applicant's arguments filed on 06/12/2008 have been fully considered but they are not persuasive for the above reasons.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Tai Duong at telephone number (571) 272-2291.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

TVD
09/08

/Dung Nguyen/
Primary Examiner, Art Unit 2871

Application Number**Application/Control No.**

10/533,351

Examiner

TAI DUONG

**Applicant(s)/Patent under
Reexamination**

SANDELIUS, THOMAS

Art Unit

2871